

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

GABRIELA MARTINEZ DE la CRUZ

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:18-cv-123-LG-RHW

FORREST WELLS, M.D. and GULF COAST
PLASTIC AND RECONSTRUCTIVE SURGERY, PLLC

DEFENDANTS

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, GABRIELA MARTINEZ DE la CRUZ, complains of the Defendants, Forrest Wells, M.D. and Gulf Coast Plastic and Reconstructive Surgery, PLLC, as follows:

PARTIES

I.

The Plaintiff, Gabriela Martinez De la Cruz ("Gabriela"), is an adult resident citizen of the state of Louisiana residing at 1420 Utah Beach Drive, Apartment O, Bridge City, Louisiana 70094.

II.

The Defendant, Forrest Wells, M.D., ("Wells"), at all material times mentioned herein, was a physician licensed under the laws of the state of Mississippi, and at the

time of this incident was engaged in the medical discipline of plastic surgery and reconstructive surgery in Jackson County, Mississippi. Wells may be served at his place of business at 4509 Gibson Road, Ocean Springs, Mississippi 39564. Wells is the managing member of Gulf Coast Plastic and Reconstructive Surgery, PLLC.

III.

The Defendant, Gulf Coast Plastic and Reconstructive Surgery, PLLC ("GCPRS"), is a Mississippi corporation whose principal place of business is 4509 Gibson Road, Ocean Springs, Mississippi 39564. GCPRS may be served with process upon its registered agent, Kelly Wells, at 10601 Johns Bayou Road, Vancleave, Mississippi 39565.

IV.

As mandated by Miss. Code Ann. §15-1-36(15), Gabriela has provided appropriate notice of the claim to Wells and GCPRS at least 60 days prior to commencing this action. In accord with Miss. Code Ann. § 11-1-58 (1972), a Certificate of Compliance is attached hereto.

JURISDICTION AND VENUE

V.

Jurisdiction is vested in this Court on the basis of diversity of citizenship, 28 U.S.C. § 1332. The amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

VI.

Venue is proper in the Southern District of Mississippi, Southern Division pursuant to 28 U.S.C. § 1391.

FACTS

VII.

On or about February 22, 2016, Wells performed a carpal tunnel release procedure on Gabriela's right hand/wrist. Post operatively Gabriela complained of pain and loss of sensation in her right hand, inability to use her right hand or pain associated with use of her right hand, and intermittent episodes of hot/cold sensations to her right hand.

VIII.

When Gabriela's symptoms did not subside she was referred to occupational therapy. Gabriela attended twenty sessions of occupational therapy and upon completion of therapy on May 5, 2016, continued to experience pain in her right hand/wrist.

IX.

A nerve conduction study was performed on May 18, 2016, almost three months post-operatively, which revealed worsening of the right median nerve. Motor distal latencies were greatly increased and motor and sensory amplitudes were diminished. Electrical abnormalities were quite severe in degree as opposed to more moderate changes preoperatively.

X.

On July 8, 2016, Gabriela presented to Dr. Alexander Blevens with Bienville Orthopaedic Specialists wherein she was noted to have experienced pain since the February 22, 2016, carpal tunnel surgery performed by Wells. Dr. Blevens recommended a repeat right carpal tunnel release.

XI.

On August 3, 2016, Dr. Blevins performed a carpal tunnel release procedure on Gabriela's right hand/wrist. Dr. Blevens' surgery revealed a right median nerve injury with neuroma. Additionally, within the scar there was a complete or near complete transection of the median nerve with extensive scar formation between the ends and a gap of approximately 1 cm. The neuroma in the right median nerve resulted from a complete or near-complete transection of the nerve during the February 22, 2016, surgery performed by Wells.

XII.

Gabriela has subsequently developed complex regional pain disorder secondary to the medial nerve injury. Additionally, she has developed right shoulder adhesive capsulitis.

XIII.

Gabriela has been unable to return to work as an electrician and has sustained substantial loss of income.

NEGLIGENCE

XIV.

Gabriela re-alleges as though set forth in full herein the allegations of all previous paragraphs.

XV.

At all times relevant, Wells held himself out to the public as a qualified and skilled plastic/reconstructive surgeon. The treatment rendered by Wells failed to meet the care of a minimally competent physician.

XVI.

The treatment and care rendered by GCPRS through its managing member and surgeon, Wells, failed to comply with the standard of care required of a minimally competent clinic. The actions, inactions, omissions and commissions of Wells are imputed to GCPRS as a matter of law for which GCPRS is liable.

XVII.

Wells and/or GCPRS are liable to Gabriela in the following respects which proximately caused or contributed to her injuries:

- a. In negligently failing to exercise minimal care in the treatment of Gabriela;
and
- b. In negligently damaging the median nerve during the February 22, 2016, carpal tunnel release procedure resulting in a complete or near-complete transection of the median nerve.

XVIII.

As a direct and proximate result of the negligence of Wells and/or GCPRS, Gabriela has suffered both pecuniary and non-pecuniary losses and damages including:

- a. Hospital, medical, therapeutic and related expenses, past, present and future;
- b. Lost wages and permanent loss of wage earning capacity;
- c. Physical pain and emotional suffering, past, present and future; and
- d. Other damages as allowed.

WHEREFORE, PREMISES CONSIDERED, Gabriela Martinez De la Cruz sues and demands sues and demands reasonable compensation of and from Forrest Wells, M.D. and Gulf Coast Plastic and Reconstructive Surgery, PLLC together with all costs of this action.

Respectfully submitted this the 11th day of April, 2018.

GABRIELA MARTINEZ DE la CRUZ

BY: /s/ ROBERT P. MYERS, JR. (Bar No. 9007)

ROBERT P. MYERS, JR. (Bar No. 9007)
OWEN, GALLOWAY & MYERS, P.L.L.C.
1414 25TH AVENUE
OWEN BUILDING
POST OFFICE DRAWER 420
GULFPORT, MS 39502-0420
TEL: (228) 868-2821
FAX: (228) 868-2813
Email: rpm@owen-galloway.com

MARIANO J. BARVIÉ (Bar No. 10324)
HOPKINS, BARVIÉ & HOPKINS, P.L.L.C.
2701 24TH AVENUE
POST OFFICE BOX 1510
GULFPORT, MS 39502-1510
TEL: (228) 864-2200
FAX: (228) 868-9358
EMAIL: mbarvie@hopkins-law.com